

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID McKAY et al.,

No. C-06-1377 MMC

Plaintiffs,

**ORDER DISMISSING ACTION FOR
FAILURE TO ADEQUATELY ALLEGE
SUBJECT MATTER JURISDICTION**

v.

CHRISTIAN HAGESETH et al.,

Defendants.


_____ /

The instant action was filed February 24, 2006 on the basis of diversity jurisdiction. (See Compl. ¶ 1.) Plaintiffs fail, however, to allege the citizenship, as opposed to the residence, of any of the defendants. See Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001) (noting diversity jurisdiction statute “speaks of citizenship, not residency”). Additionally, although one of the defendants, JRB Health Solutions, LLC, appears to be a limited liability company, plaintiffs fail to allege the citizenship of that entity in accordance with the Ninth Circuit’s recent holding that a limited liability company is “a citizen of every state of which its owners/members are citizens.” See Johnson v. Columbia Properties Anchorage L.P., 2006 WL 306765 (9th Cir. Feb. 10, 2006). “Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties.” See Kanter, 265 F.3d at 857.

1 Accordingly, the instant action is hereby DISMISSED without prejudice. Plaintiffs
2 may either (1) file an amended complaint, no later than March 17, 2006, addressing the
3 deficiencies noted, or (2) refile the action in state court.

4 **IT IS SO ORDERED.**

5 Dated: March 1, 2006


MAXINE M. CHESNEY
United States District Judge